

### Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to Automotive Index options. In accordance with Chapter XXIV of CBOE's Rules, the Index will be treated as a narrow-based index for purposes of policies regarding trading halts and suspensions,<sup>5</sup> and margin treatment.<sup>6</sup>

Index option contracts based on the Automotive Index will be subject to the position limit requirements of Rule 24.4, pursuant to which position and exercise limits for options on the Index would currently be set at 7,500 contracts. Positions in Index LEAPS will be aggregated with positions in Index options on a one-for-one basis. Ten reduced-value options will equal one full-value contract for purposes of aggregating positions.

CBOE has the necessary systems capacity to support new series that would result from the introduction of the Automotive Index options. CBOE has also been informed that OPRA has the capacity to support such new series.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will permit trading in options based on the Automotive Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

The rule proposal will also serve to further these objectives by providing investors with the ability to invest in options based on an additional index.

#### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition.

#### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consent, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR-CBOE-95-51 and should be submitted by October 26, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36302; File No. SR-CBOE-95-34]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Interruption of the Retail Automated Execution System Following Certain Analyst's Reports**

September 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 12, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission

("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The CBOE proposes to promulgate a policy concerning the application of CBOE Rule 6.6, "Unusual Market Conditions," in the circumstance where the Exchange has determined that the televised reporting of a particular securities analyst has had a regular, albeit short-lived, destabilizing impact on the options market.<sup>1</sup> Specifically, the Exchange proposes to declare a "fast" market for a short period of time each day for options of the class or classes of stock(s) identified in the analyst's report and to temporarily deactivate the Exchange's Retail Automated Execution System ("RAES") for the affected options until the stock prices in the primary market and options prices in RAES have adjusted, which is likely to occur within one or two minutes following the report. The Exchange plans to announce the policy through a regulatory circular to its members.

The text of the proposal is available at the Office of the Secretary, CBOE, and at the Commission.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), of the most significant aspects of such statements.

<sup>1</sup> CBOE Rule 6.6 allows two or more floor officials, because of an influx of orders or other unusual conditions or circumstances, and in the interest of maintaining a fair and orderly market, to declare the market in one or more classes of option contracts to be "fast." Under CBOE Rule 6.6, the floor officials declaring the fast market have the power to take actions that are deemed necessary in the interest of maintaining a fair and orderly market.

<sup>5</sup> See CBOE Rule 24.7.

<sup>6</sup> See CBOE Rule 24.11.

<sup>7</sup> 17 CFR 200.30-3(a)(12).

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposal is to implement procedures in response to a situation currently confronting the Exchange whereby a well-known securities analyst presents over cable television, at the same time each day, an exclusive report of his analysis of a specific identified company or companies, often involving conjecture concerning a future transaction or development with respect to the company or companies. According to the Exchange, each day's broadcast often causes an immediate and significant impact on the market price of the stock(s) identified in the report. This permits certain viewers of the televised report, utilizing high speed computers, to transmit options orders to buy or sell options covering the stock(s) in question (depending on whether the report is "bullish" or "bearish") through RAES before either the price of the stock(s) in the primary market or the prices of options governing the stock(s) in RAES have had time to adjust. The Exchange states that the result is an abuse of the RAES system, in as much as, for a short period of time, persons entering computerized options orders in RAES are able to obtain automatic executions at prices that are no longer current, simply because there has not been sufficient time to adjust prices in RAES. According to the CBOE, the ability of certain persons to "game" the system in this way operates to the disadvantage of CBOE market makers who are obligated under Exchange rules to take the other side of the orders.

In response to this situation, the CBOE's Market Performance Committee, which consists of floor officials who are authorized under CBOE Rule 6.6 to take such action as is deemed necessary to maintain a fair and orderly market in response to unusual market conditions, has determined that the market in options of the class or classes covering the stock that is the subject of the televised report will be declared "fast" for a short period of time each day, commencing at the time the analyst's report is aired, at which time RAES will be deactivated temporarily by the Exchange's control room in the affected class or classes of options. RAES will be reactivated at the post with the consent of two floor officials as soon as stock prices in the primary market and options prices in RAES have adjusted, which is likely to occur within one or two minutes following the report. CBOE members will be notified of both the

deactivation of RAES in particular classes of options and its reactivation by means of (1) a message to members that will print at each post on the trading floor, and (2) a message over the Exchange's TextNet system, which has terminals at various places around the Exchange floor.

The Exchange believes that this policy will help to encourage more active market maker participation in RAES without harming the intended beneficiaries of RAES, *i.e.*, public customers who submit small orders. In addition, the CBOE notes that even for the few minutes when RAES is deactivated, the trading crowd will continue to have the responsibility to fill customer orders according to CBOE rules, including the firm quote rule.

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 after the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>2</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 95-24797 Filed 10-4-95; 8:45 am]

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[Release No. 34-36303; File No. SR-NASD-95-29]

**Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change to the Corporate Financing Rule at Article III, Section 44 of the Rules of Fair Practice Regarding Rights of First Refusal**

September 29, 1995.

**I. Introduction**

On June 1, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The rule change amends the Rules of Fair Practice to: (a) Reduce the duration of the right of first refusal from five years to three years; (b) limit a member to one opportunity to waive or terminate a right of first refusal in consideration of any payment or fee; (c) limit the amount of such waiver/termination payments; and (d) specify

<sup>2</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).